



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 16, 2011

CBCA 2463-TRAV

In the Matter of CATHERINE E. GROW

Catherine E. Grow, Omaha, NE, Claimant.

Anne Schmitt-Shoemaker, Deputy Director, Finance Center, U.S. Army Corps of Engineers, Millington, TN, appearing for the Department of the Army.

SHERIDAN, Board Judge.

Claimant, Catherine E. Grow, a civilian employee of the U.S. Army Corps of Engineers (USACE or agency), contests the agency's determination that she was paid \$633.60 in violation of the Joint Travel Regulations (JTR). Claimant was authorized to travel for a temporary duty (TDY) training assignment but for personal reasons traveled earlier than the proceed date in her travel orders. The TDY was canceled after claimant arrived at the TDY site but prior to the proceed date on the travel orders. We conclude that the claimant was entitled to be reimbursed the \$633.60 that is the subject of this claim. An employee assigned TDY who departs prematurely for the TDY destination on authorized annual leave which would not have been taken but for the TDY assignment should not be penalized by reason of a subsequent cancellation of the TDY.

Background

Claimant was issued travel orders for TDY to fly from Omaha, Nebraska, to attend training April 11 through 15, 2011, in Orlando, Florida. Claimant elected to spend two days in Orlando prior to the start of the training, and annual leave was approved for Friday, April 8, 2011, for her flight to Orlando.¹

¹ Claimant's husband was joining her in Orlando on April 8 and returning to Omaha on April 13, 2011.

Shortly after claimant arrived in Orlando, at 2:30 p.m. EST on April 8, 2011, she was notified that the training had been canceled due to a possible government shutdown. According to claimant, there was no return flight to Omaha that same day. She rescheduled her return flight for Wednesday, April 13, 2011, to coincide with her husband's return flight.

Claimant sought and was reimbursed her actual travel costs, limited to expenses associated with the travel to and from her temporary duty (TDY) destination, including air fair, ground transportation to and from airports, and lodging costs.²

The USACE Finance Center TDY Audit Division performed an audit of claimant's reimbursement and determined that claimant had been paid in violation of the Joint Travel Regulations (JTR), specifically, paragraph C4564-H. The TDY Audit Division initiated procedures to bill claimant for \$633.60 in expenses that the agency had reimbursed her.

JTR C4564-H provided:

TDY Order Cancellation after Travel Commencement and while on Authorized Leave. When an employee is on leave en route to a TDY station and the TDY order is canceled, the employee is authorized travel and transportation allowances for travel performed, provided the order is canceled on/after the date travel was required to begin. In such case, the allowances payable must not exceed the constructed allowances payable for travel from the PDS to the TDY station and return over a usually traveled direct route, provided that official travel to the TDY station is authorized prior to departure on annual leave.

NOTE: If the TDY requirement is known before departure on leave, the employee is reimbursed actual travel expenses NTE [not to exceed] the constructed round-trip cost between the PDS and TDY location. City-pair airfares are not authorized for use to/from the leave location if the TDY requirement is known before leave is begun.

The agency asserts that because the proceed date on the travel orders was April 10, 2011, that was the date official travel was required to begin. USACE posits that while the

² Claimant included in her reimbursement the cost of one night's stay in the conference hotel, stating that the hotel stay was necessary because there was no flight available to return to Omaha on the day she arrived in Orlando.

travel orders stated that claimant would actually be traveling on April 8, 2011, on leave for personal reasons at no cost to the Government, the fact that she was not in official travel status on April 8 precludes the agency from reimbursing her travel and transportation allowances.

Discussion

The general rule which applies when an employee proceeds to a point away from her official duty station while on annual leave, is that she assumes the obligation of returning to the official duty station at her own expense. *F.A. Calabrese*, 56 Comp. Gen. 96 (1976). However, the General Accounting Office (GAO),³ one of our predecessors in deciding travel claims of government employees, recognized an exception to this rule in cases where an employee travels on approved annual leave to a leave point prior to, but in anticipation of completing a previously scheduled TDY assignment, and the TDY assignment is cancelled after the employee travels to the leave point. In cases where cancellation of the TDY assignment is beyond the employee's control and it can be determined that, but for the TDY assignment the employee would not have scheduled the leave and traveled to the leave point, the GAO authorized reimbursement. *See generally Albert L. Modiano*, B-245519 (Feb. 18, 1992); *Vonnie M. Martin*, B-214117 (June 26, 1984); *Arnaud J. Loustalot*, B-122739 (Feb. 10, 1977); *H.A. Leibert*, 52 Comp. Gen. 841 (1973).

In interpreting JTR C10102-7,⁴ which was an earlier but substantively identical version of JTR C4564-H, the GAO concluded that an employee who departs prematurely pursuant to properly authorized leave and travel orders should not be penalized by reason of

³ Now the Government Accountability Office.

⁴ JTR C10102-7 provided at the time:

Cancellation of temporary duty orders after Travel Commencement and while on Authorized Leave. When an employee is on leave en route to a temporary duty station and the travel orders authorizing the temporary duty are canceled, he is entitled to travel and transportation allowances for travel performed, provided that the orders are canceled on or after the date travel was required to be performed. In such case, the allowances payable will not exceed the constructive allowances that would have been payable for travel from the permanent duty station to the temporary duty station and return over a usually traveled direct route, provided that official travel to the temporary duty station was authorized prior to departure on annual leave.

the subsequent cancellation of the TDY assignment. *Arne A. Niemi*, B-175427 (Apr. 14, 1972). Recognizing the “equitable approach” taken by the GAO where “leave and TDY assignments are juxtaposed in time,” the General Services Administration Board of Contract Appeals, another predecessor in deciding travel claims of government employees, applied similar principles in finding a claimant entitled to reimbursement. *See Lorrie L. Wood*, GSBCA 13705-TRAV, 97-1 BCA ¶ 28,707 (1996). Reimbursement in such cases is limited to the expense the Government would have incurred had the employee traveled from her official duty station to the TDY station and returned by the usually traveled direct route. 52 Comp. Gen. at 841.

While the record does not specifically so state, based on claimant’s statements, she would not have taken annual leave, booked an earlier flight, and arranged for her husband to meet her in Orlando, but for the training assignment. Further, as there was no return flight to Omaha that day, it was reasonable for the claimant to incur and be compensated for the one night’s stay in the hotel and expenses she claimed.

We believe that the logic of the decisions cited above compels the conclusion that claimant is entitled to be reimbursed for the costs associated with her travel to and from the TDY destination as well as the claimed associated lodgings. This way claimant will not be penalized because of the subsequent cancellation of her TDY assignment. Therefore, we conclude that the claimant is entitled to be reimbursed for the claimed amount of \$633.60.

Decision

The Board finds for the claimant.

PATRICIA J. SHERIDAN
Board Judge